



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,613	02/18/2004	Thomas Alexander Horn	CM2603CQ	2691

27752 7590 08/25/2005

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

EXAMINER

LAVINDER, JACK W

ART UNIT PAPER NUMBER

3677

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/781,613	Applicant(s) HORN ET AL.	
	Examiner Jack W. Lavinder	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Office Action

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 10-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The details of this rejection can be found in the prior office action mailed on 3/11/05.

The applicant's reply to the rejection is that the examiner's misunderstandings are in fact mostly correct understandings. The increase in bond area results in an increase in loop integrity and a decrease in the number of available fibers for engagement with the hooks. It is this competing interest and apparent contradictions, which is the focal point of the invention.

This reply does not answer the main questions of enablement brought about with the 112 first paragraph rejection. That is, the specification states in one section that the fibers that are bonded are unavailable for hook engagement and in another section state that the fibers that are bonded are available for hook engagement. In fact, in the reply, the applicant has stated that the fibers that are partially bonded are partially available for engagement. The applicant is now stating that some fibers are partially bonded and are partially available for engagement. This was not disclosed in the original specification.

The questions of enablement have not been resolved by applicant's reply. Why are the bonded fibers unavailable for engagement?

Art Unit: 3677

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stumpf, 3687754.

Stumpf is applied as stated in the last office action mailed on 3/11/05. The applicant has amended the independent claims to include the limitation "wherein said pattern includes at least 3.2 pattern elements per square centimeter." Stumpf fails to disclose the specific density of the pattern elements. However, the density of the pattern elements, i.e., the amount of adhesive lines applied to the loop member, is considered a design effect variable. The increase or decrease in the density of the pattern elements results in an expected increase or decrease in the number of fibers being adhered to the loop and results in an increase or decrease in the number of fibers adhere to themselves in Stumpf's final product. It would have been an obvious design choice to increase or decrease the number of pattern elements to increase or decrease the bond strength of Stumpf's final product in order to vary the product for different uses without wasting adhesive.

5. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stumpf as applied to claims 1-4, 10-12 above, and further in view of Romanek, 4446189.

Stumpf in view of Romanek is applied in the same manner as stated in the office action mailed on 3/11/05.

6. Claims 1-4 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over King, 5595567 in view of Stumpf, '754.

King in view of Stumpf are applied in the same manner as set forth in the previous office action mailed on 3/11/05. King also fails to disclose the newly added limitation "wherein said pattern includes at least 3.2 pattern elements per square centimeter." King does disclose that the strength and the overall efficacy of the loop component are related to the bond pattern. King also discloses numerous types, shapes, and densities of bond patterns (column 8). It would have been an obvious design choice to increase or decrease the number of pattern elements to increase or decrease the bond strength of King's final product in order to vary the product for different uses without wasting adhesive.

Response to Applicant's Arguments

7. Applicant's arguments with respect to the claims have been considered but are not deemed persuasive.

The applicant argues on page 8 that Stumpf is concerned with providing an elastic non-woven fabric that is not significantly impaired by the addition of adhesive and that the focus of the present invention is not to provide an elastic non-woven fabric. This argument fails to address the claimed limitations. The claim does not preclude the invention from being an elastic non-woven fabric. The limitation in the claims is directed to a non-woven fabric, which is disclosed by Stumpf.

The applicant argues the 103 rejection based on Stumpf in view of Romanek on page 9 of their remarks. The applicant argues that there is no motivation to combine the two references. In the rejection, the examiner has established that the use of a sinusoidal wave of adhesive applied 180 degrees out of phase is a design choice to one of ordinary skill in the art. The courts have recognized for many years that design choice is obvious to one of ordinary skill in the art.

Art Unit: 3677

Clearly, Romanek discloses alternative embodiments for applying the adhesive to a textile material, wherein one of the embodiments shows a sinusoidal adhesive applied 180 out of phase with an adjacent line of adhesive. The rejection established the fact that either type of sinusoidal wave pattern works equally as well as the other in producing effective reliable bonds. Since the applicant has still failed to show any criticality between the in-phase sinusoidal bond pattern and the out-of-phase bond pattern, the choice of either pattern would be obvious to a person having ordinary skill in the art.

The applicant argues the King in view of Stumpf rejection by stating that the non-linear bond lines do not perform "equally as well" as straight lines. The examiner disagrees with the applicant because King clearly discloses that either type of bond lines, curved or linear, would work in their invention (column 8 and 11). Thus, it was concluded that either type of bond line would work equally as well as the other in securing the fiber to the base material.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Art Unit: 3677

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication should be directed to Jack W. Lavinder at telephone number 703-308-3421.



Jack W Lavinder
Primary Examiner
Art Unit 3677

8/18/05